

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4377

BY DELEGATES STORCH, ANDERSON, TRECOST,
MANCHIN, FLUHARTY, ZATEZALO, WELD AND D. EVANS

[Passed March 8, 2016; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §7-18-1 and §7-18-3 of the Code of West Virginia, 1931, as
2 amended, all relating to exemptions from the hotel occupancy tax; eliminating exemption
3 from the imposition of the hotel occupancy tax on consumers occupying a hotel room for
4 thirty or more consecutive days; and excluding from the meaning of the term "hotel room"
5 certain sleeping accommodations.

Be it enacted by the Legislature of West Virginia:

1 That §7-18-1 and §7-18-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 18. HOTEL OCCUPANCY TAX.

§7-18-1. Hotel occupancy tax.

1 (a) *Authority to impose.* -- On and after July 1, 1985, any county or municipality may
2 impose and collect a privilege tax upon the occupancy of hotel rooms located within its taxing
3 jurisdiction. The tax shall be imposed and collected as provided in this article.

4 (b) *Municipal tax.* -- A municipal hotel tax shall be imposed by ordinance enacted by the
5 governing body of the municipality, in accordance with the provisions of article eleven, chapter
6 eight of this code. The tax shall be imposed uniformly throughout the municipality; and the tax
7 shall apply to all hotels located within the corporate limits of the municipality, including hotels
8 owned by the state or by any political subdivision of this state.

9 (c) *County tax.* -- A county hotel tax shall be imposed by order of the county commission
10 duly entered of record. The tax shall be imposed uniformly throughout the county: *Provided*, That
11 no county commission may impose its tax on hotels located within the corporate limits of any
12 municipality situated, in whole or in part, within the county: *Provided, however*, That the tax
13 collected by a hotel owned by a municipality but located outside the corporate limits of the
14 municipality pursuant to this article shall be remitted to the municipality owning the hotel for
15 expenditure pursuant to the provisions of section fourteen of this article. The tax shall apply to all
16 hotels located outside the corporate limits of a municipality, including hotels owned by the state
17 or any political subdivision of this state.

(d) The tax shall be imposed on the consumer and shall be collected by the hotel operator as part of the consideration paid for the occupancy of a hotel room.

§7-18-3. Definitions.

For the purposes of this article:

(a) "Consideration paid" or "consideration" means the amount received in money, credits, property or other consideration for or in exchange for the right to occupy a hotel room as herein defined.

(b) "Consumer" means a person who pays the consideration for the use or occupancy of a hotel room. The term "consumer" does not mean the government of the United States of America, its agencies or instrumentalities, or the government of the State of West Virginia or political subdivisions thereof.

(c) "Hotel" means any facility, building or buildings, publicly or privately owned (including a facility located in a state, county or municipal park), in which the public may, for a consideration, obtain sleeping accommodations. The term includes but is not limited to, boarding houses, hotels, motels, inns, courts, condominiums, lodges, cabins and tourist homes. The term "hotel" includes state, county and city parks offering accommodations as herein set forth. The term "hotel" does not mean a hospital, sanitarium, extended care facility, nursing home or university or college housing unit, or any facility providing fewer than three rooms in private homes, not exceeding a total of ten days in a calendar year, nor any tent, trailer or camper campsites: *Provided, That* where a university or college housing unit provides sleeping accommodations for the general nonstudent public for a consideration, the term "hotel" does, if otherwise applicable, apply to those accommodations for the purposes of this tax.

(d) "Hotel operator" means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy, receiver, executor or in any other capacity. Where the hotel operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent

is a hotel operator for the purposes of this article and has the same duties and liabilities as his or her principal. Compliance with the provisions of this article by either the principal or the managing agent is, however, considered to be compliance by both.

(e) "Hotel room" means any room or suite of rooms or other facility affording sleeping accommodations to the general public and situated within a hotel. The term "hotel room" does not include:

(1) A banquet room, meeting room or any other room not primarily used for, or in conjunction with, sleeping accommodations; or

(2) Sleeping accommodations rented on a month-to-month basis or other rental arrangement for thirty days or longer at the inception at a boarding house, condominium, cabin, tourist home, apartment or home.

(3) Sleeping accommodations rented by a hotel operator to those persons directly employed by the hotel operator for the purposes of performing duties in support of the operation of the hotel or related operations.

(f) "Person" means any individual, firm, partnership, joint venture, association, syndicate, social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust, business trust, trustee, committee, estate, executor, administrator or any other group or combination acting as a unit.

(g) "State park" means any state-owned facility which is part of this state's park and recreation system established pursuant to this code. For purposes of this article, any recreational facility otherwise qualifying as a "hotel" and situated within a state park is considered to be solely within the county in which the building or buildings comprising the facility are physically situated, notwithstanding the fact that the state park within which the facility is located may lie within the jurisdiction of more than one county.

(h) "Tax," "taxes" or "this tax" means the hotel occupancy tax authorized by this article.

(i) "Taxing authority" means a municipality or county levying or imposing the tax authorized

50 by this article.

51 (j) "Taxpayer" means any person liable for the tax authorized by this article.